

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 885 OF 2004

Anglo Scottish Education
Society and another

... Petitioners

Vs.

Mumbai Municipal Corporation
and others

... Respondents

Mr. Iqbal Chagla, Sr. Advocate with Mr. Sham
Diwan & Ms. Madhavi Diwan i/by Mahimtura & Co.
for Petitioner.

Mrs. A.R. Joshi for Respondent Nos. 1 to 4.

Mr. A. Sayed, A.G.P. for Respondent No. 5.

CORAM : F.I. REBELLO,J.
DATED : DECEMBER 08, 2004

P.C .

. Rule. Heard forthwith.

. Various demands of the petitioners pursuant to
the rateable value which has been fixed by the
Corporation in respect of the premises owned by the
petitioners herein have been made. The Petitioners
has preferred appeals. Subsequent thereto, they
have filed the present petition. It is their
contention that various jurisdictional facts are
involved and in these circumstances, petition would
be maintainable. They also make a statement that
they will withdraw the appeals as preferred which
are pending. Statement accepted.

. The learned counsel points out firstly that considering the law as laid down by the Apex Court, rateable value cannot be more than the standard rent which could be fixed for the premises. Secondly it is pointed out that the standard rent even if fixed will have to take into consideration, the fact that the plot is reserved for the school and is not meant for commercial purposes and therefore, rateable value could not be fixed on that basis and finally it is pointed out as Charitable trust they are entitled to various exemptions. The competent authority fixing the rateable value has not taken these factors into consideration. These being jurisdictional issues, the order fixing rateable value are liable to be set aside.

. On behalf of the Respondent their learned counsel points out that the Petitioners have already preferred appeals and this court ought not to exercise its extra ordinary jurisdiction. However, the fact now remains that the statement has been made on behalf of the petitioner that they propose to withdraw the appeals and that statement has been accepted. The points raised would require consideration. In these circumstances, no purpose would be served if this petition is admitted and kept pending before this court. Considering that the ends of justice will be met if the reliefs as

prayed for are granted and the matter is remanded back to the competent authority for fixing the rateable value wherein Petitioners can raise all issues as raised by them in the present petition and any other contentions available. It maybe further made clear that against the order passed by the Revisional Authority, if the Petitioners are still aggrieved, they have a remedy to proceed according to law by preferring appeal before the Small Causes Court. Considering the above, the following order :

. Petition made absolute in terms of Prayer

Clauses (a)(i), (a)(ii), (a)(iii) as amended and (a)(vi).

There shall be no order as to costs.

s

(F.I. REBELLO,J.)